UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/787,366	02/26/2004	David A. Eatough	3408.2.6	7955

21552   7590   10/16/2009
AUSTIN RAPP & HARDMAN
170 South Main Street, Suite 735
SALT LAKE CITY, UT 84101

EXAMINER
DENG, ANNA CHEN

ART UNIT	PAPER NUMBER
2191	

NOTIFICATION DATE	DELIVERY MODE
10/16/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

usptocorrespondence@austin-rapp.com

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS,
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>02 July 2009</u>.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1,2 and 4-18</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1,2 and 4-18</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
        application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   This action is in response to amendment filed on 7/2/2009.

2.   The rejection under 35 U.S.C. 101 to claims 10-18 is withdrawn in view of

Applicant's amendment on Specification to remove and disavow the non-statutory

subject matter in the computer-readable medium.

3.   Claims 1, 4, 10, and 15 have been amended.

4.   Claim 3 has been canceled.

5.   Claims 1-2, and 4-18 are pending.

Response to Amendment

Claim Rejections - 35 USC § 103

6.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

7.   Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Chen et al. US 6,418,449 B1 (hereinafter Chen), in view of Peters et al. US 6,920,555

B1 (hereinafter Peters).

Per Claim 1 (Currently Amended):

Chen teaches **A method for writing an image to a storage device of a computer system** (Chen, col. 1, lines 51-52, The present invention has been accomplished to provide a file system clone technique), **the method comprising:**

storing the image on the computer system (Chen, col. 2, lines 32-37, data from source Partition 2 is stored in Bitmap File (Bitmap Table) 1, in the form of a Data Block and then the Data Block of source Partition 2 is compressed into Image File 3 subject to Bitmap File 1 … Image File 3 have been duplicated onto the target disk… *(store the image)*);

using an imaging tool to write the image to the hard drive of the computer system (Chen, col. 2, lines 42-47, The clone technique of the invention is to clone the File System of Source Partition 2 to object Partition 4 by Bitmap File 1),

wherein the imaging tool uses a temporary file system to access the image, wherein the temporary file system is transparent to the imaging tool, wherein the temporary file system is not the file system of the hard drive, and wherein the imaging tool writes the image to the hard drive of the computer system such that the imaging tool access the image from the same partition of the hard drive as to which the imaging tool is writing the image (Chen, FIG. 3, col. 2, lines 32-65, data from source Partition 2 is stored in Bitmap File (Bitmap Table) 1, in the form of a Data Block and then the Data Block of source Partition 2 is compressed into Image File 3 subject to Bitmap File 1; … compressed Bitmap File 1 of Source Partition 2 is decompressed in Object Partition 4 in the Object disk … Read out the Image File 3 and resume storage data to the Object Partition 4 of one Object Disk…the modified data is

written into the Object Partition 4, and the content of the data block of the <u>Source</u>

<u>Partition 2 is cloned (written) to the Object Partition 4</u> of the Object Disk. Also, see FIG.

5, Step 505, col. 3, lines 15-17 the Bitmap File is read in and stored in a Temporary File

(step 505) (emphases added)), *here, the Bitmap File includes Image File 3 has been*

decompressed in Object Partition 4 that is not the file system of the hard drive, and thus

read (access) Bitmap File (image) and stored in a Temporary File in the Object Partition

4 that is the partition where write the image.

  Chen does not explicitly teach receiving an image on the computer system,

wherein the computer has a current operating system and includes a hard drive.

  However, Peters teaches **receiving an image on the computer system**

(Peters, col. 9, lines 35, the partition that will receive the new image) **wherein the**

computer has a current operating system and includes a hard drive (Peters, col.

10, line 44-45, this embodiment to be running or runnable under a Microsoft Windows

operating system, and col. 3, line 20, the computer's hard disk (hard drive)).

  It would have been obvious to one having ordinary skill in the computer art at the

time of the invention was made to modify the method disclosed by Chen to include

receiving an image on the computer system, wherein the computer has a current

operating system and includes a hard drive using the teaching of Peters. The

modification would be obvious because one of ordinary skill in the art would be

motivated to provide tools and techniques to coordinate the imaging operations with

user profile migration on computer system as once suggested by Peters (Peters, col. 2,

lines 11-13).

Per Claim 2:

The rejection of claim 1 is incorporated, and Peter further teaches **the image is stored on one or more partitions of the hard drive of the computer system without using the file system** (col. 11, lines 20-24,The system reboots 424 once again to the bootable "in place migration" CD; this is preferably an automatic reboot This boots the system 100 under a DOS operating system (without using the file system of Windows) and invokes 426 *Drive Image Pro* software or another imaging tool to load the new image onto the system's primary partition (emphases added)).

Per Claim 4:

The rejection of claim 2 is incorporated, and Peter further teaches **running an imaging operating system that is different than the current operating system, wherein the imaging tool operates on the imaging operating system** (Peters, col. 10, line 44-45, this embodiment to be running or runnable under a Microsoft Windows operating system (current operating system); and col. 11, lines 20-24,The system reboots 424 once again to the bootable "in place migration" CD; this is preferably an automatic reboot This boots the system 100 under a DOS operating system (imaging operating system) and invokes 426 Drive Image Pro software or another imaging tool to load the new image onto the system's primary partition).

Per Claim 5:

The rejection of claim 4 is incorporated, and Peters further teaches **the imaging operating system comprises DOS** (Peters, col. 11, lines 20-24,The system reboots 424 once again to the bootable "in place migration" CD; this is preferably an automatic reboot This boots the system 100 under a DOS operating system (imaging operating system) and invokes 426 Drive Image Pro software or another imaging tool to load the new image onto the system's primary partition).

Per Claim 6:

The rejection of claim 5 is incorporated, Chen teaches **the temporary file system is implemented at the BIOS level through use of an interrupt** (Chen, FIG. 5, steps 502-505, and related text, col. 3, lines 11-16).

Per Claim 7:

The rejection of claim 1 is incorporated, and Peters further teaches **sending the image from an administrative system** (Peters, col. 3, lines 22-23, The boot image may also be downloaded from a network server).

Per Claim 8:

The rejection of claim 7 is incorporated, and Peters further teaches **the image is multicast by the administrative system** (Peters, col. 3, lines 6-17, "Migration code may reside in various computer readable media ... for instance, files on a bootable CD,

files in the new image on the computer's disk, and/or command files for network

management tools...").

Per Claim 9:

The rejection of claim 2 is incorporated, and Peter further teaches **the image is
stored on an unformatted partition of the hard drive and on the final sectors of
the unformatted partition** (Peters, FIG. 1, Memory 112, col. 4, lines 32-37, "memory

112 and may include other forms of memory 112 such as ROM or PROM", also, col. 7,

lines 50-61, "Expressly defined migration content partitions are preferred over implicit

migration content partitions...").

Per Claims 10-14:

These are computer-readable medium versions of the claimed method discussed

above (claims 1, 5-7, and 9), wherein all claim limitations also have been addressed

and/or covered in cited areas as set forth above, and include **running an imaging
operating system on the computer system, wherein the computer system has a
current operating system that is not running** (Peters, col. 10, line 44-45, this

embodiment to be running or runnable under a Microsoft Windows operating system

(current operating system); and col. 11, lines 20-24,The system reboots 424 once again

to the bootable "in place migration" CD; this is preferably an automatic reboot This boots

the system 100 under a DOS operating system (imaging operating system) and invokes

426 Drive Image Pro software or another imaging tool to load the new image onto the

system's primary partition, *(here, when running the DOS operating system, of cause,*
the Windows operating system is not running). Thus, accordingly, these claims are also
obvious.

Per Claims 15-18:

These are system versions of the claimed computer-readable medium discussed
above (claims 10-14), wherein all claim limitations also have been addressed and/or
covered in cited areas as set forth above, and include **an administrative computer**
system in electronic communication with a computer network (Peter, col. 3, lines
22-23, a network server), **an image for use with a target computer system** (col. 2,
lines 45-54, deploys an image into a partition of the computer system...Imaging is
accomplished using an imaging tool); **imaging server for managing imaging**
processes on other computers (Peters, col. 6, lines 1-12, the Preboot Execution
Environment (PXE) specification, which makes it possible to configure or reconfigure
the computer system 100 from a remote machine ...The network may also be configure
with IBM LanClient control Manager (LCCM) software, which is an automated remote
software distribution tool.), **a target computer system in electronic communication**
with the computer network (Peters, col. 5, lines 44-45, The computer system 100 may
be connectable to one or more network). Thus, accordingly, these claims are also
obvious.

Response to Arguments

8.   Applicant's arguments with respect to claims 1, 10, and 15 have been considered but are moot in view of the new ground(s) of rejection.

Applicant argued:

     Baumann and Peters do not teach or suggest the amended limitation of the imaging tool writes the image to the hard drive of the computer system such that the imaging tool access the image from the same partition of the hard drive as to which the imaging tool is writing the image.

Examiner response:

     Chen does teach and suggest the amended limitation of the imaging tool writes the image to the hard drive of the computer system such that the imaging tool access the image from the same partition of the hard drive as to which the imaging tool is writing the image (for example, see Chen, FIG. 3, , col. 2, lines 32-65, data from source Partition 2 is stored in Bitmap File (Bitmap Table) 1, in the form of a Data Block and then the Data Block of source Partition 2 is compressed into Image File 3 subject to Bitmap File 1; ... compressed Bitmap File 1 of Source Partition 2 is decompressed in Object Partition 4 in the Object disk ... Read out the Image File 3 and resume storage data to the Object Partition 4 of one Object Disk...the modified data is written into the Object Partition 4, and the content of the data block of the Source Partition 2 is cloned (written) to the Object Partition 4 of the Object Disk. Also, see FIG. 5, Step 505, col. 3,

lines 15-17 the Bitmap File is read in and stored in a Temporary File (step 505)

(emphases added)).

Here, Chen teaches the Bitmap File includes Image File 3 has been

decompressed in Object Partition, and read (access) Bitmap File (image) and stored in

a Temporary File in the Object Partition 4 which is the same partition where write(clone)

the image.

Conclusion

9.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136 (a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

10.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Anna Deng whose telephone number is 571-272-5989.

The examiner can normally be reached on Monday to Friday 9:30 AM - 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wei Zhen can be reached on 571-272-3708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the TC2100 Group receptionist whose telephone number is 571-272-2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Anna Deng/

Primary Examiner, Art Unit 2191

10/7/ 2009